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RESCUER—NEGLIGENCE OF.—A telephone lineman is held, in *Whitworth* v. *Shreveport Belt R. Co.* (La.), 65 L. R. A. 129, not to be guilty of negligence in going to the rescue of a fellow workman who, while on a telephone pole, received a shock caused by the wire he was handling coming in contact with the span wire of an electric street car system, which, because of the defective insulation of the hanger by which it was connected with the trolley wire, was heavily charged with electricity, whereupon he fell headlong, and, his spurs catching on a spike on the pole, hung suspended in the air; and the railroad company is held to be liable for the death of the lineman, where, in his effort to relieve his fellow worker, he seized the telephone wire, which had become charged with electricity through the negligence of the railroad company, and was instantly killed.

See article by Thomas W. Shelton, Esq., 10 Va. Law Reg. 671.

COMBINATIONS IN RESTRAINT OF TRADE AND INIMICAL TO PUBLIC POLICY—CF. SEC. 165, CONSTITUTION OF 1902.—Where three coal mining companies, operating in the same vein or seam in close proximity to one another, and just having commenced the development of that particular kind of coal, organize indirectly and nominally in the names of individuals a third corporation to act as their general sales agent, and each gives it by contract the exclusive right to sell its entire output of coal at prices uniform as to all three companies; and the agent company is to advertise and introduce the coal in the markets, establish and control all agencies and sub-agencies, and make all sales and collections, and deduct for its compensation ten cents per ton out of the proceeds of sale, it is held, in *Slaughter* v. *Thacker Coal & Coke Co.* (W. Va.), 65 L. R. A. 342, that the contract is illegal and void, as tending to suppress competition and restrain trade, contrary to public policy.

Sec. 165 of the Constitution of 1902 provides that the General Assembly shall enact laws preventing all trusts, combinations and monopolies, inimical to public policy. It seems that no laws have been enacted to carry out this provision of the Constitution.

UNFAIR COMPETITION—EVIDENCE—TRADE MARKS PRIOR APPROPRIATION.—In *Continental Tobacco Co.* v. *Larus & Bro Co.* (C. C. A., Fourth Circuit, on appeal from the Circuit Court for the E. D. of Va.) 133 Fed. 727, it was held:

1. Where the method of putting up complainant's plug tobacco was shown to be in common use and not distinctive, the defendant's use of a yellow tin label or tag, circular in shape, and about an inch in diameter, but containing printed matter essentially different from that used on complainant's label, was insufficient to establish unfair competition.

2. Where tin tags of all colors, including yellow, of various sizes, had been used by tobacco manufacturers for several years, and a yellow tag similar in appearance to that used by complainant had been in use, without complainant's objection, by another manufacturer for 10 years, the size and color of such tag was not of itself such a distinction as either complainant or defendant could appropriate as a trade-mark.

On the subject of unfair competition in trade, see notes to *Scheuer* v. *Muller*, 20 C. C. A. 165; *Lare* v. *Harper & Bros.*, 30 C. C. A. 376; 10 Va. Law Reg. 359.